

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. SECURITIES AND EXCHANGE
COMMISSION,

Plaintiffs,

against

SILVERGATE CAPITAL CORPORATION, ALAN
J. LANE, KATHLEEN FRAHER, AND ANTONIO
MARTINO,

Defendants.

24-cv-4987

**DECLARATION OF ADAM S. LURIE IN SUPPORT
OF ANTONIO MARTINO’S MOTION TO DISMISS**

I, ADAM S. LURIE, hereby declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

I am a member of the Bar of this Court, and a partner at Linklaters LLP, counsel to Antonio Martino in the above captioned matter. I submit this declaration, together with the attached exhibits, in support of Antonio Martino’s Motion to Dismiss dated January 14, 2025.

1. Attached hereto as **Exhibit A** is a true and correct copy of the Security and Exchange Commission’s (“SEC’s”) “Report and Recommendations Pursuant to Section 133 of the Emergency Economic Stabilization Act of 2008: Study on Mark-To-Market Accounting,” *available at* <https://www.sec.gov/news/studies/2008/marktomarket123008.pdf>.

2. Attached hereto as **Exhibit B** is a true and correct copy of Silvergate Capital Corporation’s (“Silvergate’s”) Form 8-K filed with the SEC on January 17, 2023, including the press release and the earnings presentation filed as exhibits thereto, *available at*

<https://www.sec.gov/ix?doc=/Archives/edgar/data/1312109/000131210923000020/si-20230117.htm>.

3. Attached hereto as **Exhibit C** is a true and correct copy of the transcript of the Silvergate Capital Corporation Q4 and Full Year 2023 Earnings Conference Call, Tuesday, January 17, 2023 at 11:00 a.m. Eastern, *available at* <https://www.sec.gov/Archives/edgar/data/1312109/000131210923000028/ex991siconferencecalltrans.htm>.

4. Attached hereto as **Exhibit D** is a true and correct copy of Silvergate's Form 8-K filed with the SEC on January 5, 2023, including the press release filed as an exhibit thereto, *available at* <https://www.sec.gov/ix?doc=/Archives/edgar/data/1312109/000131210923000011/si-20230105.htm>.

5. Attached hereto as **Exhibit E** is a true and correct copy of Silvergate's 2021 Form 10-K filed with the SEC on February 28, 2022, *available at* <https://www.sec.gov/ix?doc=/Archives/edgar/data/1312109/000131210922000051/si-20211231.htm>.

6. Attached hereto as **Exhibit F** is a true and correct copy of an email from Steven Cibull to Jason Sasanfar and forwarded to Antonio Martino by Jason Sasanfar, dated January 3, 2023.

7. Attached hereto as **Exhibit G** is a true and correct copy of a Silvergate presentation dated January 5, 2023.

8. Attached hereto as **Exhibit H** is a true and correct copy of an email exchange between Antonio Martino, Guy Thompson, Jason Sasanfar, Jesse Avery, and Justin Evans, dated January 12, 2023.

9. Attached hereto as **Exhibit I** is a true and correct copy of an email exchange between Andrew Surry and Sal Inserra, dated January 13, 2023.

10. Attached hereto as **Exhibit J** is a true and correct copy of an email from Antonio Martino to Adam Takeda, copying Jason Sasanfar and Andrew Surry, dated December 21, 2022.

11. Attached hereto as **Exhibit K** is a true and correct copy of a letter from Antonio Martino, Silvergate, to Thomas Giel, Federal Reserve Bank of San Francisco, dated January 19, 2023.

12. Attached hereto as **Exhibit L** is a true and correct copy of a Silvergate presentation dated January 4, 2023.

13. Attached hereto as **Exhibit M** is a true and correct copy of the Office of Thrift Supervision's "OTS Guidance to Examination Staff Accounting Considerations Related to Other-Than-Temporary Impairment of Securities (Subsequent to adoption of FASB Staff Position FAS 115-2 and 124-2)," issued on August 28, 2009, *available at* <https://www.occ.treas.gov/static/ots/ceo-memos/ots-ceo-memo-320.pdf>.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 14, 2025
New York, New York

By: /s/ Adam S. Lurie

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